



**Town of Walpole  
Commonwealth of Massachusetts  
Zoning Board of Appeals**

John Lee, Chairman  
Susanne Murphy, Vice Chair  
Robert Fitzgerald, Clerk  
Mary Jane Coffey, Member

**DECISION – WALPOLE ZONING BOARD OF APPEALS CASE NO. 22-18**

**APPLICANT**

Brookside Village Walpole, LLC.

**LOCATION OF PROPERTY INVOLVED**

164 Pine Street, Walpole, MA and shown on the Assessors Map 54 and Parcel 23, Zoning  
District: Residence HBD

**APPLICATION**

A Variance under Section 6-C.8.D of the Zoning Bylaw to allow an eight foot stockade-wood fence, located at 164 Pine Street, Walpole, MA 02081

On November 7, 2018 a Public Hearing was held in the Main Meeting Room of Town Hall for the purpose of receiving information and voting upon a decision as to the granting of a **Variance** for the relief requested.

The following members were present and voting:

John Lee, Chairman  
Susanne Murphy, Vice Chairman  
Robert Fitzgerald, Clerk  
Mary Jane Coffey, Member

A motion was made by Mary Jane Coffey and seconded by Robert Fitzgerald to grant a Variance from Section 6-C.8.D of the Zoning Bylaw to allow an eight foot stockade-wood fence, located at 164 Pine Street, Walpole, MA 02081.

The vote was **4-0-0 in favor** (Lee, Murphy, Coffey and Fitzgerald,); therefore the application for a **Variance** under Section 6-C.8.D is hereby **granted**, subject to the following conditions:

**CONDITIONS**

1. The fence shall be constructed as shown on the plan submitted at the public hearing on November 7, 2018, titled "Brookside Village, 164 Pine Street, Walpole, MA 02081" prepared by Meadowbrook Realty Trust, with the latest revision date of December 08, 2015.
2. The fence shall be composed of vinyl as agreed to by the Applicant and the direct abutter who is located at 10 Montaup Road, Sharon, MA 02067 at the public hearing.

135 School Street, Walpole, MA 02081

3. It shall be noted that the fence will be constructed on the Brookside Village, Walpole, MA 02081 side of the property (currently known as Filmore Lane) that abuts 10 Montaup Road, Sharon MA 02067.

### **REASONS FOR DECISION**

It is the finding of the Board that the applicant was able to meet the requirements for the granting of a Variance, as per the following:

1. *Owing to circumstances relating to soil conditions, shape or topography of such parcel or to such structure, and especially affecting such land or structure but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this bylaw would involve substantial hardship to the appellant or petitioner.*

The proposed 8--foot fence is to be located at the property line of Brookside Village (Filmore Lane), Walpole, 02081 and 10 Montaup Road, Sharon, MA 02067 in order to provide the abutter with privacy and visual screening from the Brookside Village development, due to the abutters property being pie shaped, and higher in elevation. The granting of the Variance will allow the Applicant to fulfill his requirement to provide a fence per the approved plans from the Planning Board. In addition, the Applicant is the successor in interest to the prior owner of the property who agreed to provide such fencing to the abutter and is now making good on that prior agreement to provide for further privacy and visual screening.

2. *Desirable relief may be granted without substantial detriment to the public good.*

The proposed eight--foot fence will only be eight feet at the section in back of 10 Montaup Road, Sharon, MA 02067, and will be six feet in height at all other areas due to the abutters lot being higher in elevation than the surrounding properties. The fence is not located along a public street and will not obstruct any views related to public safety, and furthermore, there was no opposition from abutters or any of the public.

**3. *Relief may be granted without nullifying or derogating from the intent or purpose of this bylaw.***

The addition of the proposed eight-foot fence will be vinyl, as conditioned, and will therefore remain in character with the neighborhood. The fence satisfies both the Applicant and the abutter, and with the conditions imposed, there will not be further derogation from the bylaw.

**Consistency: This decision is consistent with purpose and intent of the Zoning By-laws.**

**The grant of relief under this decision is limited to the relief expressly granted hereunder; and any other relief sought is hereby denied.**

\* \* \* \* \*

Said Variance is granted pursuant to Massachusetts General Laws c. 40A, s. 10 which provides in pertinent part as follows: "If the rights authorized by a variance are not exercised within one year of the date of grant of such variance such rights shall lapse; provided, however, that the permit granting authority in its discretion and upon written application by the grantee of such rights may extend the time for exercise of such rights for a period not to exceed six months; and provided, further, that the application for such extension is filed with such permit granting authority prior to the expiration of such one year period. If the permit granting authority does not grant such extension within thirty (30) days of the date of application thereof, and upon the expiration of the original one year period, such rights may be reestablished only after notice and a new hearing pursuant to the provisions of this section."

Massachusetts General Laws c. 40A, s. 11. provides in pertinent part as follows:

"...No variance or special permit, or any extension, modification or renewal thereof, shall take effect until a copy of the decision bearing the certification of the town or city clerk that twenty days have elapsed after the decision has been filed in the office of the city or town clerk and no appeal has been filed or that if such appeal has been filed, that it has been dismissed or denied, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The fee for recording or registering shall be paid by the owner or applicant."

**MASSACHUSETTS GENERAL LAWS c. 40A, s. 15 PROVIDES THAT APPEALS FROM A DECISION OF A BOARD OF APPEALS SHALL BE MADE PURSUANT TO SECTION 17 OF C. 40A AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.**

WALPOLE ZONING BOARD OF APPEALS

Robert Fitzgerald  
Robert Fitzgerald, Clerk *RF/am*

RF/am

cc: Town Clerk	Engineering	Planning Board	Applicant
Board of Selectmen	Building Inspector	Conservation Commission	Abutters

This decision was made on November 7, 2018 and filed with the Town Clerk on November 15, 2018.